

# J. Thomas Kerner, Attorney at Law

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August 2, 2004

Ms. Maryellen Molloy  
Courtroom Clerk for:  
The Honorable Nancy Gertner  
United States District Court  
1 Courthouse Way  
Boston, MA 02210

Re: U.S. v. Julio Bernabel-Diaz, 04-10172-NG

Dear Ms. Molloy:

In response to Judge Gertner's General Procedural Order, please note that this case is not affected by the Blakely decision. The defendant and the government have entered into a plea agreement which provides for both parties to request a sentence of time served.

On June 21, 2004, the defendant filed a request for a joint Rule 11 hearing and sentencing. The defendant contends, and the government agrees, that the information in the record will enable the Court to exercise its sentencing authority under 18 U.S.C. § 3553 without a presentence investigation and report.

I am requesting a Rule 11/Sentencing hearing as soon as possible. May I suggest any time during the afternoon of August 6, 9 11-13? I am also available the morning of August 10, 2004.

Thank you.

Very Truly Yours,

J. Thomas Kerner

cc: Nadine Pellegrini, AUSA  
JTK:ms